

Introduced by Senator Morrow

February 18, 2005

An act to amend Section 1021.5 of the Code of Civil Procedure, relating to attorneys' fees.

LEGISLATIVE COUNSEL'S DIGEST

SB 589, as introduced, Morrow. Civil procedure: attorneys' fees.

Under existing law, a court may award attorneys' fees to a successful party against one or more opposing parties in any action that has resulted in the enforcement of an important right affecting the public interest and if a significant benefit has been conferred on the public or a large class of persons and other conditions are satisfied.

This bill would make a technical, nonsubstantive change to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1021.5 of the Code of Civil Procedure is
2 amended to read:
3 1021.5. Upon motion, a court may award attorneys' fees to a
4 successful party against one or more opposing parties in any
5 action ~~which~~ *that* has resulted in the enforcement of an important
6 right affecting the public interest if: (a) a significant benefit,
7 whether pecuniary or nonpecuniary, has been conferred on the
8 general public or a large class of persons, (b) the necessity and
9 financial burden of private enforcement, or of enforcement by
10 one public entity against another public entity, are such as to
11 make the award appropriate, and (c) such fees should not in the

1 interest of justice be paid out of the recovery, if any. With respect
2 to actions involving public entities, this section applies to
3 allowances against, but not in favor of, public entities, and no
4 claim shall be required to be filed therefor, unless one or more
5 successful parties and one or more opposing parties are public
6 entities, in which case no claim shall be required to be filed
7 therefor under Part 3 (commencing with Section 900) of Division
8 3.6 of Title 1 of the Government Code.
9 Attorneys' fees awarded to a public entity pursuant to this
10 section shall not be increased or decreased by a multiplier based
11 upon extrinsic circumstances, as discussed in *Serrano v. Priest*,
12 20 Cal. 3d 25, 49.